



Reprinted
February 27, 2008

ENGROSSED SENATE BILL No. 339

DIGEST OF SB 339 (Updated February 26, 2008 8:31 pm - DI 96)

Citations Affected: IC 5-2; IC 6-6; IC 8-6; IC 9-13; IC 9-17; IC 9-18; IC 9-22; IC 9-23; IC 9-24; IC 9-29; IC 34-30; noncode.

Synopsis: Various motor vehicle matters. Repeals and relocates provisions concerning the licensing of commercial driver training schools and instructors, and transfers responsibility and funding from the bureau of motor vehicles (bureau) to the Indiana criminal justice institute (ICJI). Transfers rules of the bureau concerning commercial driver training schools and instructors from the bureau to the ICJI, with certain specifications. Removes the requirement that the daily deposit of motor vehicle excise taxes collected by the bureau be deposited in a separate account. Authorizes the bureau to determine the registration schedule for various categories of vehicles. Repeals outdated language concerning registration schedules for certain vehicles. Provides that a police officer who finds or is notified of a vehicle or parts that are believed to be abandoned shall attach a notice tag stating that the vehicle or parts will be removed after thirty-six hours, if the vehicle is
(Continued next page)

Effective: January 1, 2008 (retroactive); upon passage; July 1, 2008.

Merritt, Rogers
(HOUSE SPONSORS — AUSTIN, SAUNDERS)

January 14, 2008, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 22, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, ordered engrossed. Engrossed.

January 29, 2008, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 4, 2008, read first time and referred to Committee on Roads and Transportation.

February 21, 2008, amended, reported favorably — Do Pass.

February 26, 2008, read second time, amended, ordered engrossed.

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located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4. Requires a railroad company to erect and maintain a whistle post in advance of public crossings. Provides that a person who engages in the business of selling at least 12 off-road vehicles to the general public each year for delivery in Indiana must secure a dealer's license from the secretary of state. Repeals language exempting a seller of off-road vehicles from the requirements of a motor vehicle dealer's license. Provides that certain motor carrier employers may provide an advance of wages and then take certain deductions from subsequent wages under certain circumstances. Provides that under certain circumstances, certain motor vehicles titled outside of Indiana do not need an inspection for an Indiana title to be issued. Provides that the special fuel tax exemption for certain biodiesel produced by an individual, who uses the fuel for personal noncommercial use, may not be claimed for more than 5,000 gallons of special fuel per year (current law limits the exemption using a formula based on the percentage biodiesel content of the special fuel). Makes conforming amendments. Makes technical corrections.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 339

A BILL FOR AN ACT to amend the Indiana Code concerning
motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.186-2007,
2 SECTION 3, AS AMENDED BY P.L.192-2007, SECTION 1, AND
3 AS AMENDED BY P.L.216-2007, SECTION 1, IS CORRECTED
4 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
5 2008]: Sec. 3. The institute is established to do the following:
6 (1) Evaluate state and local programs associated with:
7 (A) the prevention, detection, and solution of criminal
8 offenses;
9 (B) law enforcement; and
10 (C) the administration of criminal and juvenile justice.
11 (2) Improve and coordinate all aspects of law enforcement,
12 juvenile justice, and criminal justice in this state.
13 (3) Stimulate criminal and juvenile justice research.
14 (4) Develop new methods for the prevention and reduction of
15 crime.
16 (5) Prepare applications for funds under the Omnibus Act and the
17 Juvenile Justice Act.

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- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- (10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex *or violent* offender registration under IC 11-8-8.
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- (12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.
- (13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.*
- ~~(13)~~ (14) Develop and manage the gang crime witness protection program established by section 21 of this chapter.
- ~~(14)~~ (15) Identify grants and other funds that can be used to fund the gang crime witness protection program.

(16) Administer the licensing of:

(A) commercial driver training schools; and

(B) instructors at commercial driver training schools.

SECTION 2. IC 5-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]

Chapter 6.5. Commercial Driver Training Schools

Sec. 1. This chapter does not apply to the following:

- (1) An individual giving driver training lessons without charge.**
- (2) Employers maintaining driver training schools without charge, for employees of the employer only.**
- (3) Schools or classes conducted by colleges, universities, and high schools for regularly enrolled students.**

Sec. 2. As used in this chapter, "bureau" refers to the bureau of motor vehicles created by IC 9-14-1-1.

Sec. 3. As used in this chapter, "college" means:

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- (1) an accredited college;
- (2) a technical college;
- (3) a university; or
- (4) a junior college.

Sec. 4. (a) As used in this chapter, "commercial driver training school" means a business enterprise that:

- (1) is conducted by an individual, an association, a partnership, a limited liability company, or a corporation for the education and training of persons, practically or theoretically, or both, to operate or drive motor vehicles or to prepare an applicant for an examination or validation given by the bureau under IC 9-24 for a driver's license; and
- (2) charges consideration or tuition for the provision of services.

(b) The term does not include a business enterprise that educates or trains a person or prepares a person for an examination or a validation given by the bureau to operate or drive a motor vehicle as a vocation.

Sec. 5. As used in this chapter, "driver's license" has the meaning set forth in IC 9-13-2-48.

Sec. 6. As used in this chapter, "institute" refers to the Indiana criminal justice institute established by IC 5-2-6-3.

Sec. 7. As used in this chapter, "instructor" means the following:

- (1) An individual, whether acting as the operator of a commercial driver training school or on behalf of a commercial driver training school, who for compensation teaches, conducts classes of, gives demonstrations to, or supervises the practice of individuals learning to operate or drive motor vehicles or preparing to take an examination for a driver's license.
- (2) An individual who supervises the work of an instructor.

Sec. 8. (a) To establish or operate a commercial driver training school, the commercial driver training school must obtain a commercial driver training school license from the institute in the manner and form prescribed by the institute.

(b) Subject to subsections (c) and (d), the institute shall adopt rules under IC 4-22-2 that state the requirements for obtaining a commercial driver training school license, including the following:

- (1) Location of the commercial driver training school.
- (2) Equipment required.
- (3) Courses of instruction.

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(4) Instructors.

(5) Previous records of the commercial driver training school and instructors.

(6) Financial statements.

(7) Schedule of fees and charges.

(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the institute considers necessary to adequately protect the interests of the public.

(10) Other matters the institute prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed commercial driver training school to provide classroom training during which an instructor is present in a county outside the county where the commercial driver training school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-19-2-8;

(3) a nonpublic secondary school recognized under IC 20-19-2-10;

(4) a state educational institution; or

(5) a nonaccredited nonpublic school.

However, the rules must provide that a licensed commercial driver training school may provide classroom training in an entity listed in subdivisions (1) through (3) only if the governing body of the entity approves the delivery of the training to its students.

(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving.

Sec. 9. (a) To be eligible for an instructor's license under subsection (d), an individual must complete at least sixty (60) semester hours at a postsecondary educational institution. The individual must:

(1) complete at least nine (9) semester hours in driver education courses; and

(2) be at least twenty-one (21) years of age upon completion of the driver education courses required by subdivision (1).

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(b) The driver education courses required under subsection (a)(1) must include a combination of theoretical and behind-the-wheel instruction that is consistent with nationally accepted standards in traffic safety.

(c) The driver education semester hours completed under subsection (a)(1) do not satisfy the requirements of subsection (d) unless the driver education curriculum is approved by the commission for higher education.

(d) The institute shall issue an instructor's license to an individual:

(1) who:

(A) meets the requirements of subsection (a);

(B) does not have more than the maximum number of points for violating traffic laws specified by the bureau by rules adopted under IC 4-22-2; and

(C) has a good moral character, physical condition, knowledge of the rules of the road, and work history; or

(2) who holds a driver and traffic safety education endorsement issued by the department of education established by IC 20-19-3-1 and meets the requirements of subdivision (1)(B) and (1)(C).

The institute shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of subdivision (1)(C). Only an individual who holds an instructor's license issued by the institute under this subsection may act as an instructor.

Sec. 10. (a) A license issued under section 8 or 9 of this chapter expires on the last day of the fiscal year and may be renewed upon application to the institute as prescribed by rule.

(b) Each application for an original or renewal license must be accompanied by a:

(1) certified check;

(2) corporate check; or

(3) United States postal money order.

(c) The fee for:

(1) an original or a renewal commercial driver training school license is one hundred dollars (\$100); and

(2) an original or a renewal instructor's license is ten dollars (\$10).

(d) A license fee may not be refunded if the license application is rejected or the license is suspended or revoked.

(e) A license fee collected under this section shall be deposited

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in the motor vehicle highway account fund established under IC 8-14-1.

Sec. 11. (a) The institute shall adopt rules under IC 4-22-2 that are necessary to administer and enforce this chapter and to protect the public.

(b) The institute shall do the following:

(1) Inspect the following:

(A) Commercial driver training school facilities.

(B) Equipment of applicants for licenses and licensees under this chapter.

(2) Examine applicants for instructor's licenses.

(c) The institute shall administer and enforce this chapter and may request assistance from the superintendent of public instruction in developing and formulating appropriate rules.

Sec. 12. (a) The institute may:

(1) cancel;

(2) suspend;

(3) revoke;

(4) refuse to issue; or

(5) refuse to renew;

a commercial driver training school license or an instructor's license if the institute finds that a licensee or an applicant has not complied with or has violated this chapter or a rule adopted by the institute under this chapter.

(b) A person who holds a license that has been canceled, suspended, or revoked under this section shall return the license to the institute.

Sec. 13. The institute, after notice and opportunity for a hearing, may cancel, suspend, revoke, or refuse to renew a license issued under this chapter if it is shown that the person who holds the license:

(1) no longer meets the requirements necessary to obtain the license; or

(2) has willfully violated this chapter or a rule adopted by the institute.

Sec. 14. A person who violates this chapter commits a Class C infraction.

SECTION 3. IC 6-6-2.5-30.5, AS ADDED BY P.L.33-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 30.5. (a) Except as provided in subsection (b), special fuel is exempt from the special fuel tax if:

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(1) the special fuel has a nominal biodiesel content of at least twenty percent (20%);

(2) the special fuel is used only for a personal, noncommercial use and is not for resale; and

(3) the individual using the special fuel:

(A) produces the biodiesel content of the special fuel; and

(B) obtains an exemption certificate under subsection (c) before using the special fuel.

(b) ~~The maximum number of gallons of special fuel for which An individual may claim the exemption under this section in a for not more than five thousand (5,000) gallons of special fuel per year. is equal to:~~

~~(1) two thousand (2,000); divided by~~

~~(2) the average percentage volume of biodiesel in each gallon used by the individual.~~

(c) The department shall issue an exemption certificate to an individual who produces evidence of nontaxability under subsection (a)(1), (a)(2), and (a)(3). A certificate issued under this subsection is valid for a period determined by the department, but not to exceed five (5) years. The department may allow an individual to renew an exemption certification for additional five (5) year periods. An exemption certificate applies only to special fuel described in subsection (a). An individual holding a certificate issued under this subsection shall notify the department:

(1) of any address change by the individual; and

(2) when the individual ceases using special fuel that is exempt under this section.

(d) An individual who is issued an exemption certificate under this section must submit to the department a report, in a form prescribed by the department, not later than January 20 of each year. The report must include:

~~(1) the number of gallons of special fuel in the immediately preceding year; and~~

~~(2) the average percentage volume of biodiesel in each gallon of special fuel;~~

include the number of gallons of special fuel to which the exemption was applied in the calendar year ending on the immediately preceding December 31.

(e) An individual who is issued an exemption certificate under this section is not subject to the reporting requirements under section 35 of this chapter.

SECTION 4. IC 6-6-5-9, AS AMENDED BY P.L.184-2007,

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SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The bureau, in the administration and collection of the annual license excise tax imposed by this chapter, may utilize the services and facilities of license branches operated under IC 9-16 in its administration of the motor vehicle registration laws of the state of Indiana. The license branches may be so utilized in accordance with such procedures, in such manner, and to such extent as the bureau shall deem necessary and proper to implement and effectuate the administration and collection of the excise tax imposed by this chapter. However, in the event the bureau shall utilize such license branches in the collection of excise tax, the following apply:

(1) The excise taxes so collected by each license branch, less any refunds made by the license branch, shall be deposited daily by the license branch in a ~~separate account~~ in a depository duly designated by the state board of finance. The county treasurer of the county for which the collections are due may withdraw funds from the account at least two (2) times each week. The county treasurer is responsible for the safekeeping and investment of money withdrawn by the county treasurer under this subsection. Before the eleventh day of the month following the month in which the collections are made, the bureau of motor vehicles shall report the excise taxes collected and refunds made outside the county to the county treasurer of the county to which the collections are due and the refunds apply. The bureau shall forward a copy of this excise tax report to the county auditor of the county.

(2) A license branch shall each week forward a report to the county auditor of the county to whom the collections are due, showing the excise tax collected on each vehicle, each refund on a vehicle, and a copy of each registration certificate for all collections and refunds within the county.

(3) Each license branch shall also report to the bureau all excise taxes collected and refunds made under this chapter in the same manner and at the same time as registration fees are reported.

(4) Premiums for insurance to protect the funds collected by license branches against theft shall be paid by the bureau, except that the bureau may issue blanket coverage for all branches at its discretion. At the discretion of the bureau, the bureau may:

(A) self-insure to cover the activities of the license branches; or

(B) rather than purchase a bond or crime policy for each branch, purchase a single blanket bond or crime insurance

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1 policy endorsed to include faithful performance to cover all
2 branches.

3 (5) If the services of a license branch are used by the bureau in the
4 collection of the excise tax imposed by this chapter, the license
5 branch shall collect the service charge prescribed under IC 9-29
6 for each vehicle registered upon which an excise tax is collected
7 by that branch.

8 (6) If the excise tax imposed by this chapter is collected by the
9 department of state revenue, the money collected shall be
10 deposited in the state general fund to the credit of the appropriate
11 county and reported to the bureau of motor vehicles on the first
12 working day following the week of collection. Except as provided
13 in subdivision (7), any amount collected by the department which
14 represents interest or a penalty shall be retained by the department
15 and used to pay its costs of enforcing this chapter.

16 (7) This subdivision applies only to interest or a penalty collected
17 by the department of state revenue from a person who:

18 (A) fails to properly register a vehicle as required by IC 9-18
19 and pay the tax due under this chapter; and

20 (B) during any time after the date by which the vehicle was
21 required to be registered under IC 9-18 displays on the vehicle
22 a license plate issued by another state.

23 The total amount collected by the department that represents
24 interest or a penalty, minus a reasonable amount determined by
25 the department to represent its administrative expenses, shall be
26 deposited in the state general fund for the credit of the county in
27 which the person resides. The amount shall be reported to the
28 bureau of motor vehicles on the first working day following the
29 week of collection.

30 The bureau may contract with a bank card or credit card vendor for
31 acceptance of bank or credit cards.

32 (b) On or before April 1 of each year the bureau shall provide to the
33 auditor of state the amount of motor vehicle excise taxes collected for
34 each county for the preceding year.

35 (c) On or before May 10 and November 10 of each year the auditor
36 of state shall distribute to each county one-half (1/2) of:

37 (1) the amount of delinquent taxes; and

38 (2) any penalty or interest described in subsection (a)(7);

39 that have been credited to the county under subsection (a). There is
40 appropriated from the state general fund the amount necessary to make
41 the distributions required by this subsection. The county auditor shall
42 apportion and distribute the delinquent tax distributions to the taxing

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units in the county at the same time and in the same manner as excise taxes are apportioned and distributed under section 10 of this chapter.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

SECTION 5. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection ~~(c)~~ (d) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state, beginning not less than one-fourth (1/4) mile from the crossings:

- (1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and
- (2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) A railroad shall erect and maintain a whistle post in advance of public crossings for the protection of the public and the railroad's employees. A damaged or removed whistle post must be repaired or replaced by the railroad not more than forty-eight (48) hours after notification to the railroad of the damage or removal.

~~(b)~~ (c) It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

~~(c)~~ (d) A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing

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must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

- (1) school bus routes;
- (2) emergency service routes;
- (3) hazardous materials routes;
- (4) pedestrian traffic;
- (5) trespassers;
- (6) recreational facilities;
- (7) trails; and
- (8) measures to increase safety in the corridor, including:
 - (A) four (4) quadrant gates;
 - (B) median barriers;
 - (C) crossing closures;
 - (D) law enforcement programs; and
 - (E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.

~~(d)~~ (e) Notwithstanding a contrary provision in an ordinance adopted under subsection ~~(c)~~; (d), an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.

~~(c)~~ (f) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing

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to which an ordinance described in subsection ~~(c)~~ **(d)** applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

~~(f)~~ **(g)** The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection ~~(c)~~ **(d)** applies not less than one (1) time in a five (5) year period.

~~(g)~~ **(h)** The Indiana department of transportation may not revoke the permission granted under subsection ~~(c)~~ **(d)** for an ordinance.

~~(h)~~ **(i)** The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety.

SECTION 6. IC 8-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Every engineer or other person in charge of or operating any such engine, who shall fail or neglect to comply with the provisions of section 1 of this chapter, shall be held personally liable therefor to the State of Indiana, in a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and a railroad company that violates the provisions of ~~IC 1971, 8-6-4-1(b)~~ **section 1(b) or 1(c) of this chapter** shall be held liable therefor to the State of Indiana, in a penalty of not less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and the company in whose employ such ~~engineer~~ **engineer** or person may be, as well as the person himself, shall be liable in damages to any person, or his representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid.

SECTION 7. IC 9-13-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. "Commercial driver training school", for purposes of IC 9-24-10-4, ~~and IC 9-27-4,~~ has the meaning set forth in ~~IC 9-27-4-2~~ **IC 5-2-6.5-4**.

SECTION 8. IC 9-13-2-42, AS AMENDED BY P.L.41-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana. **The term includes a person who sells off-road vehicles.** A dealer must have an established place of business that meets the minimum

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standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

(3) A person who is a dealer solely because of activities as a transfer dealer.

~~(4) A person who sells off-road vehicles.~~

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft; per year.

SECTION 9. IC 9-13-2-150.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 150.5. "Registered importer" has the meaning set forth in IC 9-17-2-0.5.**

SECTION 10. IC 9-17-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "registered importer" means a person that is:**

(1) **registered as an importer with the National Highway Traffic Safety Administration;**

(2) **a licensed dealer currently in good standing with the state; and**

(3) **a validated member of the United States Department of Homeland Security's Customs-Trade Partnership Against Terrorism (C-TPAT) administered by the United States Customs and Border Protection.**

SECTION 11. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and

(2) sold not less than one hundred fifty (150) motor vehicles during the preceding year.

(b) This section does not apply to the following:

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

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(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(4) A motor vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if:

(A) the registered importer complies with section 12.5(a) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(5) A motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company, if:

(A) the financial institution, lending institution, or insurance company complies with section 12.5(b) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the bureau to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 12. IC 9-17-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in the name of a financial institution, a lending institution, or an insurance company in Canada and imported by a registered importer without requiring an inspection under section 12(c) of this chapter if the registered importer presents the bureau with the following**

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documentation relating to the motor vehicle:

(1) A copy of the registered importer's validation agreement issued by the United States Customs and Border Protection (CBP).

(2) A copy of the entry summary issued by the United States Customs and Border Protection (CBP Form 7501).

(3) A vehicle history report issued by an independent provider of vehicle history information that includes:

(A) the vehicle's title information;

(B) the vehicle's odometer readings; and

(C) the number of owners of the vehicle.

(b) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company if the financial institution, lending institution, or insurance company presents to the bureau a vehicle history report issued by an independent provider of vehicle history information that includes:

(1) the motor vehicle's title information;

(2) the motor vehicle's odometer readings; and

(3) the number of owners of the motor vehicle.

(c) A:

(1) registered importer; or

(2) financial institution, a lending institution, or an insurance company;

must maintain a copy of all documentation required by this section for at least ten (10) years.

(d) An inspection of a motor vehicle described in subsection (a) or (b) is required under section 12(c) of this chapter if:

(1) the registered importer; or

(2) the financial institution, lending institution, or insurance company;

is unable to provide the bureau with the documentation required by this section.

SECTION 13. IC 9-18-2-8, AS AMENDED BY P.L.79-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The bureau shall ~~register vehicles under~~ determine the schedule in this section: for registration for the following categories of vehicles:

(1) Passenger motor vehicles.

(2) Recreational vehicles.

(3) Motorcycles.

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1 **(4) Trucks that:**

2 **(A) are not regularly rented to others for not more than**
 3 **twenty-nine (29) days in the regular course of the**
 4 **corporation's business; and**

5 **(B) have a declared gross weight of not more than eleven**
 6 **thousand (11,000) pounds.**

7 (b) Except as provided in IC 9-18-12-2.5, a person ~~who~~ **that** owns
 8 a vehicle shall receive a license plate, renewal tag, or other indicia
 9 upon registration of the vehicle. The bureau may determine the device
 10 required to be displayed.

11 (c) ~~A corporation shall register, before February 1 of each year, the~~
 12 ~~following vehicles that are owned by the corporation:~~

13 ~~(1) A passenger motor vehicle that is not regularly rented to~~
 14 ~~others for not more than twenty-nine (29) days in the regular~~
 15 ~~course of the corporation's business.~~

16 ~~(2) A recreational vehicle.~~

17 ~~(3) A motorcycle.~~

18 ~~(4) A truck that:~~

19 ~~(A) is not regularly rented to others for not more than~~
 20 ~~twenty-nine (29) days in the regular course of the corporation's~~
 21 ~~business; and~~

22 ~~(B) has a declared gross weight of not more than eleven~~
 23 ~~thousand (11,000) pounds.~~

24 ~~(d) (c) A corporation that owns a~~

25 ~~(1) passenger motor vehicle; or~~

26 ~~(2) truck that has a declared gross weight of not more than eleven~~
 27 ~~thousand (11,000) pounds~~

28 that is regularly rented to others for periods of not more than
 29 twenty-nine (29) days in the regular course of the corporation's
 30 business must register the ~~passenger motor vehicle or truck~~ before
 31 March 1 of each year.

32 (e) For registrations for 2005, a person who owns a:

33 ~~(1) passenger motor vehicle;~~

34 ~~(2) recreational vehicle;~~

35 ~~(3) motorcycle; or~~

36 ~~(4) truck that has a declared gross weight of not more than eleven~~
 37 ~~thousand (11,000) pounds;~~

38 that is not subject to the registration requirements under subsection (d)
 39 shall register the ~~passenger motor vehicle; recreational vehicle;~~
 40 ~~motorcycle; or truck in conformance with the schedule set forth in~~
 41 ~~subsection (f) or (g).~~

42 (f) After December 31, 2005, a person who owns a vehicle subject

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to registration under this subsection shall register the vehicle in accordance with subsection (g). The following schedule applies to persons who own vehicles that are required to be registered under subsection (c):

(1) Persons whose last names begin with the letters A through BE shall register before February 16 of each year.

(2) Persons whose last names begin with the letters BF through BZ shall register before March 1 of each year.

(3) Persons whose last names begin with the letter C shall register before March 16 of each year.

(4) Persons whose last names begin with the letter D shall register before April 1 of each year.

(5) Persons whose last names begin with the letters E through F shall register before April 16 of each year.

(6) Persons whose last names begin with the letter G shall register before May 1 of each year.

(7) Persons whose last names begin with the letters HA through HN shall register before May 16 of each year.

(8) Persons whose last names begin with the letters HO through I shall register before June 1 of each year.

(9) Persons whose last names begin with the letters J through KM shall register before June 16 of each year.

(10) Persons whose last names begin with the letters KN through E shall register before July 1 of each year.

(11) Persons whose last names begin with the letters MA through ME shall register before July 16 of each year.

(12) Persons whose last names begin with the letters MF through O shall register before August 1 of each year.

(13) Persons whose last names begin with the letters P through Q shall register before August 16 of each year.

(14) Persons whose last names begin with the letter R shall register before September 1 of each year.

(15) Persons whose last names begin with the letters SA through SN shall register before September 16 of each year.

(16) Persons whose last names begin with the letters SO through T shall register before October 1 of each year.

(17) Persons whose last names begin with the letters U through WK shall register before October 16 of each year.

(18) Persons whose last names begin with the letters WL through Z shall register before November 1 of each year.

(g) The bureau shall determine the schedule for registration for the categories of vehicles set forth in subsection (c) for registrations

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required after ~~December 31, 2005~~.

~~(h)~~ (d) A person ~~who that~~ owns a vehicle in a category required to be registered under ~~subsection (c), (d), or (e)~~, **this section** and ~~who~~ desires to register the vehicle for the first time must apply to the bureau for a registration application form. The bureau shall do the following:

- (1) Administer the registration application form.
- (2) Issue the license plate.
- (3) Collect the proper registration and service fees in accordance with the procedure established by the bureau.

~~(i)~~ (e) Except as provided in IC 9-18-12-2.5, the bureau shall issue a semipermanent plate under section 30 of this chapter, or:

- (1) an annual renewal tag; or
- (2) other indicia;

to be affixed on the semipermanent plate.

SECTION 14. IC 9-22-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer's name, public agency, and address and telephone number to contact for information.
- (2) That the vehicle or parts are considered abandoned.
- (3) That the vehicle or parts will be removed after:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

- (4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.
- (5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

SECTION 15. IC 9-22-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. If a vehicle or a part tagged under section 11 of this chapter is not removed within the ~~seventy-two (72) hour~~ **applicable** period, the officer shall prepare a

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1 written abandoned vehicle report of the vehicle or parts, including
 2 information on the condition, missing parts, and other facts that might
 3 substantiate the estimated market value of the vehicle or parts.
 4 Photographs shall be taken to describe the condition of the vehicle or
 5 parts.

6 SECTION 16. IC 9-23-2-7, AS AMENDED BY P.L.184-2007,
 7 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b)
 9 through (g), the secretary of state shall issue an offsite sales license to
 10 a dealer licensed under this chapter who submits an application for the
 11 license not later than ten (10) business days or two (2) calendar weeks
 12 before the offsite sale date. License applications under this section shall
 13 be made public upon the request of any person.

14 (b) The secretary of state may not issue an offsite sales license to a
 15 dealer who does not have an established place of business within
 16 Indiana.

17 (c) The secretary of state may not issue an offsite sales license to a
 18 licensed dealer proposing to conduct the sale outside a radius of twenty
 19 (20) miles from its established place of business. This subsection does
 20 not apply to:

- 21 (1) new manufactured housing dealers;
- 22 (2) recreational vehicle dealers; ~~or~~
- 23 (3) a rental company that is a dealer conducting a sale at a site
 24 within twenty (20) miles of any of its company owned affiliates;
- 25 **or**

26 **(4) off-road vehicle dealers.**

27 (d) A vehicle display is not considered an offsite sale if it is
 28 conducted by a new vehicle franchised dealer in an open area where no
 29 sales personnel and no sales material are present.

30 (e) The secretary of state may not issue an offsite sales license to a
 31 licensed dealer proposing to conduct the offsite sale for more than ten
 32 (10) calendar days.

33 (f) As used in this subsection, "executive" has the meaning set forth
 34 in IC 36-1-2-5. The secretary of state may not issue an offsite sales
 35 license to a licensed dealer if the dealer does not have authorization
 36 that the offsite sale would be in compliance with local zoning
 37 ordinances or other local ordinances. Authorization under this
 38 subsection may only be obtained from the following:

- 39 (1) If the offsite sale would be located within the corporate
 40 boundaries of a city or town, the executive of the city or town.
- 41 (2) If the offsite sale would be located outside the corporate
 42 boundaries of a city or town:

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(A) except as provided in clause (B), the executive of the county; or

(B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary of state may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the current license application is being submitted.

(h) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 17. IC 9-24-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 4.5. (a) An employer that is a motor carrier (as defined in IC 8-2.1-17-10 or 49 CFR 390.5) engaged in the business of the transportation of property may provide:**

(1) an advance of wages not yet earned or business expenses not yet incurred to the holder of a commercial driver's license issued according to rules adopted pursuant to section 2 of this chapter; and

(2) take as a deduction from subsequent wages earned by the holder of the commercial driver's license the amount of the advance that exceeds the amount that is substantiated with a receipt or other appropriate documentary evidence that complies with the requirements applicable to a reimbursement or other expense allowance arrangements under 26 U. S.C. 62(c).

(b) The amount of the advance, in accordance with this section, deducted from subsequent wages earned by the holder of the commercial driver's license is not considered an invalid assignment of wages if the following conditions are satisfied:

(1) The advance is made at the request of the holder of the commercial driver's license.

(2) The motor carrier employer provided notice to the holder of the commercial driver's license that the amount advanced may be deducted from a subsequent wage statement to the extent that the amount of the advance exceeds the amount substantiated under this section.

SECTION 18. IC 9-29-5-42, AS AMENDED BY P.L.210-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 42. (a) Except as provided in subsection (c),**

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vehicles not subject to IC 9-18-2-8 shall be registered at one-half (1/2) of the regular rate, subject to IC 9-18-2-7, if the vehicle is registered after July 31 of any year. This subsection does not apply to the following:

(1) Special machinery.

(2) Semitrailers registered on a five (5) year or permanent basis under IC 9-18-10-2.

(3) An implement of agriculture designed to be operated primarily on a highway.

(b) Except as provided in subsection (c), subsection (a) and IC 9-18-2-7 determine the registration fee for the registration of a vehicle subject to registration under IC 9-18-2-8(c) ~~IC 9-18-2-8(d), and IC 9-18-2-8(e)~~ and acquired by an owner subsequent to the date required for the annual registration of vehicles by an owner set forth in IC 9-18-2-8.

(c) Subject to subsection (d), a vehicle subject to the International Registration Plan that is registered after September 30 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before April 1 of the following year beginning with the date of registration. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(d) If the department of state revenue adopts rules under IC 9-18-2-7 to implement staggered registration for motor vehicles subject to the International Registration Plan, a motor vehicle subject to the International Registration Plan that is registered after the date designated for registration of the motor vehicle in rules adopted under IC 9-18-2-7 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before the motor vehicle must be re-registered. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

SECTION 19. IC 34-30-2-24.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24.4. ~~IC 8-6-4-1(c)~~ **IC 8-6-4-1(f)** (Concerning a railroad company and its employees for

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injury or property damage resulting from certain accidents).

SECTION 20. [EFFECTIVE JULY 1, 2008] The rules adopted under IC 4-22-2 by the bureau of motor vehicles before July 1, 2008, concerning commercial driver training schools and instructors of commercial driver training schools are considered, after July 1, 2008, rules of the Indiana criminal justice institute.

SECTION 21. [EFFECTIVE JULY 1, 2008] (a) For the period beginning January 1, 2009, and ending June 30, 2009, there is transferred to the Indiana criminal justice institute from money appropriated to the bureau of motor vehicles an amount that is necessary to give full effect to the transfer of responsibilities concerning the licensing of commercial driver training schools and instructors from the bureau of motor vehicles to the Indiana criminal justice institute under this act.

(b) The source and amount of money transferred under subsection (a) shall be:

(1) determined jointly by the bureau of motor vehicles and the Indiana criminal justice institute; and

(2) memorialized not later than December 1, 2009, in a writing that is subject to approval by the state budget agency.

SECTION 22. [EFFECTIVE JULY 1, 2008] (a) Notwithstanding IC 9-13-2-42, as amended by this act, a person who engages in the business of selling at least twelve (12) off-road vehicles to the general public each year for delivery in Indiana whose business name begins with the letters A through L, inclusive, is not required to apply for a dealer's license under IC 9-23-2 with the bureau of motor vehicles until the month in 2009 required by IC 9-23-2-8.

(b) This SECTION expires December 31, 2009.

SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 9-13-2-27.5; IC 9-13-2-80; IC 9-23-0.5-1; IC 9-27-4; IC 9-29-12-1; IC 9-29-12-2.

SECTION 24. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 339, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 12, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2008] (a) **For the period beginning January 1, 2009, and ending June 30, 2009, there is transferred to the Indiana criminal justice institute from money appropriated to the bureau of motor vehicles an amount that is necessary to give full effect to the transfer of responsibilities concerning the licensing of commercial driver training schools and instructors from the bureau of motor vehicles to the Indiana criminal justice institute under this act.**

(b) **The source and amount of money transferred under subsection (a) shall be:**

(1) **determined jointly by the bureau of motor vehicles and the Indiana criminal justice institute; and**

(2) **memorialized not later than December 1, 2009, in a writing that is subject to approval by the state budget agency."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 339 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 339, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 9, delete "either".

Page 3, line 35, delete "driver's" and insert "**driver**".

Page 4, line 36, delete "number of semester hours of".

Page 5, delete lines 2 through 16, begin a new paragraph and insert:

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"(d) The institute shall issue an instructor's license to an individual:

(1) who:

(A) meets the requirements of subsection (a);

(B) does not have more than the maximum number of points for violating traffic laws specified by the bureau by rules adopted under IC 4-22-2; and

(C) has a good moral character, physical condition, knowledge of the rules of the road, and work history; or

(2) who holds a driver and traffic safety education endorsement issued by the department of education established by IC 20-19-3-1 and meets the requirements of subdivision (1)(B) and (1)(C).".

Page 5, line 17, before "Only" insert **"The institute shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of subdivision (1)(C)."**

Page 5, line 19, after "license" insert **"issued under section 8 or 9 of this chapter"**.

Page 5, line 28, after "renewal" insert **"commercial driver training"**.

Page 5, line 42, delete "School" and insert **"Commercial driver training school"**.

Page 6, line 1, after "applicants" insert **"for licenses"**.

Page 6, line 1, delete "licensees." and insert **"licensees under this chapter."**

Page 6, line 12, after "a" insert **"commercial driver training"**.

Page 6, line 15, delete "The" and insert **"A"**.

Page 8, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 4. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection ~~(c)~~ (d) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state, beginning not less than one-fourth (1/4) mile from the crossings:

(1) sound the whistle on the engine distinctly not less than four

(4) times, which sounding shall be prolonged or repeated until the crossing is reached; and

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(2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) A railroad shall erect and maintain a whistle post in advance of public crossings for the protection of the public and the railroad's employees.

~~(b)~~ (c) It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

~~(c)~~ (d) A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

- (1) school bus routes;
- (2) emergency service routes;



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- (3) hazardous materials routes;
- (4) pedestrian traffic;
- (5) trespassers;
- (6) recreational facilities;
- (7) trails; and
- (8) measures to increase safety in the corridor, including:
 - (A) four (4) quadrant gates;
 - (B) median barriers;
 - (C) crossing closures;
 - (D) law enforcement programs; and
 - (E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.

~~(c)~~ (e) Notwithstanding a contrary provision in an ordinance adopted under subsection ~~(c)~~, (d), an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.

~~(c)~~ (f) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection ~~(c)~~ (d) applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

~~(f)~~ (g) The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection ~~(c)~~ (d) applies not less than one (1) time in a five (5) year period.

~~(g)~~ (h) The Indiana department of transportation may not revoke the permission granted under subsection ~~(c)~~ (d) for an ordinance.

~~(h)~~ (i) The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety."

Page 8, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 6. IC 9-13-2-42, AS AMENDED BY P.L.41-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana. **The term includes a person who sells off-road vehicles.** A dealer

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must have an established place of business that meets the minimum standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

- (1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.
- (2) A public officer while performing official duties.
- (3) A person who is a dealer solely because of activities as a transfer dealer.

~~(4) A person who sells off-road vehicles.~~

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

- (1) boats; or
- (2) trailers:
 - (A) designed and used exclusively for the transportation of watercraft; and
 - (B) sold in general association with the sale of watercraft;

per year.

SECTION 7. IC 9-13-2-150.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 150.5. "Registered importer" has the meaning set forth in IC 9-17-2-0.5.**

SECTION 8. IC 9-17-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "registered importer" means a person that is:**

- (1) registered as an importer with the National Highway Traffic Safety Administration;**
- (2) a licensed dealer currently in good standing with the state; and**
- (3) a validated member of the United States Department of Homeland Security's Customs-Trade Partnership Against Terrorism (C-TPAT) administered by the United States Customs and Border Protection.**

SECTION 9. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

- (1) been in business for not less than five (5) years; and
- (2) sold not less than one hundred fifty (150) motor vehicles during the preceding year.

(b) This section does not apply to the following:

- (1) A new motor vehicle or recreational vehicle sold by a dealer

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licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(4) A motor vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if:

(A) the registered importer complies with section 12.5(a) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(5) A motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company, if:

(A) the financial institution, lending institution, or insurance company complies with section 12.5(b) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the bureau to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 10. IC 9-17-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in the name of a financial institution, a lending institution, or an insurance company in Canada and imported by a registered importer without requiring an inspection under section 12(c) of this chapter if the**

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registered importer presents the bureau with the following documentation relating to the motor vehicle:

- (1) A copy of the registered importer's validation agreement issued by the United States Customs and Border Protection (CBP).
- (2) A copy of the entry summary issued by the United States Customs and Border Protection (CBP Form 7501).
- (3) A vehicle history report issued by an independent provider of vehicle history information that includes:
 - (A) the vehicle's title information;
 - (B) the vehicle's odometer readings; and
 - (C) the number of owners of the vehicle.

(b) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company if the financial institution, lending institution, or insurance company presents to the bureau a vehicle history report issued by an independent provider of vehicle history information that includes:

- (1) the motor vehicle's title information;
- (2) the motor vehicle's odometer readings; and
- (3) the number of owners of the motor vehicle.

(c) A:

- (1) registered importer; or
- (2) financial institution, a lending institution, or an insurance company;

must maintain a copy of all documentation required by this section for at least ten (10) years.

(d) An inspection of a motor vehicle described in subsection (a) or (b) is required under section 12(c) of this chapter if:

- (1) the registered importer; or
- (2) the financial institution, lending institution, or insurance company;

is unable to provide the bureau with the documentation required by this section."

Page 11, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 12. IC 9-22-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer's name, public agency, and address and

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telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

SECTION 12. IC 9-22-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. If a vehicle or a part tagged under section 11 of this chapter is not removed within the ~~seventy-two (72) hour~~ **applicable** period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

SECTION 13. IC 9-23-2-7, AS AMENDED BY P.L.184-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b) through (g), the secretary of state shall issue an offsite sales license to a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary of state may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not apply to:

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- (1) new manufactured housing dealers;
- (2) recreational vehicle dealers; ~~or~~
- (3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates;
- or**
- (4) off-road vehicle dealers.**

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary of state may not issue an offsite sales license to a licensed dealer if the dealer does not have authorization that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may only be obtained from the following:

- (1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.
- (2) If the offsite sale would be located outside the corporate boundaries of a city or town:
 - (A) except as provided in clause (B), the executive of the county; or
 - (B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary of state may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the current license application is being submitted.

(h) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 15. IC 9-24-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 4.5. (a) An employer that is a motor carrier (as defined in IC 8-2.1-17-10) engaged in the business of the transportation of property may provide:**

- (1) an advance of wages not yet earned or business expenses not yet incurred to the holder of a commercial driver's license issued according to rules adopted pursuant to section 2 of this chapter; and**

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(2) take as a deduction from subsequent wages earned by the holder of the commercial driver's license the amount of the advance that exceeds the amount that is substantiated with a receipt or other appropriate documentary evidence that complies with the requirements applicable to a reimbursement or other expense allowance arrangements under 26 U. S.C. 62(c).

(b) The amount of the advance, in accordance with this section, deducted from subsequent wages earned by the holder of the commercial driver's license is not considered an invalid assignment of wages if the following conditions are satisfied:

(1) The advance is made at the request of the holder of the commercial driver's license.

(2) The motor carrier employer provided notice to the holder of the commercial driver's license that the amount advanced may be deducted from a subsequent wage statement to the extent that the amount of the advance exceeds the amount substantiated under this section."

Page 12, between lines 35 and 36, begin a new paragraph and insert: "SECTION 19. [EFFECTIVE JULY 1, 2008] (a) Notwithstanding IC 9-13-2-42, as amended by this act, a person who engages in the business of selling at least twelve (12) off-road vehicles to the general public each year for delivery in Indiana whose business name begins with the letters A through L, inclusive, is not required to apply for a dealer's license under IC 9-23-2 with the bureau of motor vehicles until the month in 2009 required by IC 9-23-2-8.

(b) This SECTION expires December 31, 2009."

Page 12, line 37, after "IC 9-13-2-80;" insert "IC 9-23-0.5-1;"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 339 as printed January 23, 2008.)

AUSTIN, Chair

Committee Vote: yeas 9, nays 1.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 18, line 25, delete "IC 8-2.1-17-10)" and insert

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"IC 8-2.1-17-10 or 49 CFR 390.5)".

(Reference is to ESB 339 as printed February 22, 2008.)

AUSTIN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 3, line 37, delete "subsection (c)," and insert "**subsections (c) and (d),**".

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving."

(Reference is to ESB 339 as printed February 22, 2008.)

BURTON

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 6, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 3. IC 6-6-2.5-30.5, AS ADDED BY P.L.33-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 30.5. (a) Except as provided in subsection (b), special fuel is exempt from the special fuel tax if:

- (1) the special fuel has a nominal biodiesel content of at least twenty percent (20%);
- (2) the special fuel is used only for a personal, noncommercial use and is not for resale; and
- (3) the individual using the special fuel:
 - (A) produces the biodiesel content of the special fuel; and

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(B) obtains an exemption certificate under subsection (c) before using the special fuel.

(b) ~~The maximum number of gallons of special fuel for which~~ An individual may claim the exemption under this section ~~in a~~ **for not more than five thousand (5,000) gallons of special fuel per year.** is equal to:

(1) ~~two thousand (2,000); divided by~~

(2) ~~the average percentage volume of biodiesel in each gallon used by the individual.~~

(c) The department shall issue an exemption certificate to an individual who produces evidence of nontaxability under subsection (a)(1), (a)(2), and (a)(3). A certificate issued under this subsection is valid for a period determined by the department, but not to exceed five (5) years. The department may allow an individual to renew an exemption certification for additional five (5) year periods. An exemption certificate applies only to special fuel described in subsection (a). An individual holding a certificate issued under this subsection shall notify the department:

(1) of any address change by the individual; and

(2) when the individual ceases using special fuel that is exempt under this section.

(d) An individual who is issued an exemption certificate under this section must submit to the department a report, in a form prescribed by the department, not later than January 20 of each year. The report must include:

(1) ~~the number of gallons of special fuel in the immediately preceding year; and~~

(2) ~~the average percentage volume of biodiesel in each gallon of special fuel;~~

include the number of gallons of special fuel to which the exemption was applied in the calendar year ending on the immediately preceding December 31.

(e) An individual who is issued an exemption certificate under this section is not subject to the reporting requirements under section 35 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to ESB 339 as printed February 22, 2008.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 9, line 12, after "employees." insert "**A damaged or removed whistle post must be repaired or replaced by the railroad not more than forty-eight (48) hours after notification to the railroad of the damage or removal.**".

Page 10, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 5. IC 8-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Every engineer or other person in charge of or operating any such engine, who shall fail or neglect to comply with the provisions of section 1 of this chapter, shall be held personally liable therefor to the State of Indiana, in a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and a railroad company that violates the provisions of ~~IC 1971, 8-6-4-1(b)~~ **section 1(b) or 1(c) of this chapter** shall be held liable therefor to the State of Indiana, in a penalty of not less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and the company in whose employ such ~~engineer~~ **engineer** or person may be, as well as the person himself, shall be liable in damages to any person, or his representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid."

Page 20, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 18. IC 34-30-2-24.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24.4. ~~IC 8-6-4-1(c)~~ **IC 8-6-4-1(f)** (Concerning a railroad company and its employees for injury or property damage resulting from certain accidents).".

Renumber all SECTIONS consecutively.

(Reference is to ESB 339 as printed February 22, 2008.)

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